

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING/EXECUTIVE SESSION/GENERAL MEETING
October 18, 2005**

Place: Room 206
Town Hall

TIME: 7:30 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Forman, Conze, Kenny, Spain

STAFF ATTENDING: Ginsberg, Keating (until 8 P.M.)

At 7:30 P.M., Chairman Damanti read the first agenda item:

Discussion with Robert Wilson, SWRPA Executive Director, regarding SWRPA's 4th Plan of Conservation & Development Draft.

The Commission met with Robert Wilson, SWRPA Executive Director, and Dr. Margaret Wirtenberg of Weston. Dan Wilder, Chairman of the SWRPA Executive Committee was also present, as was Paul Settelmeyer of Greenwich. Mr. Damanti then introduced members of the Darien Planning and Zoning Commission, and Mr. Wilson introduced other SWRPA board members who were present this evening and specifically mentioned those involved in development of [The Fourth Plan of Conservation and Development, 2005-2015](#) (the "Plan"). He explained that the Plan update began in 2003. There will be two public information sessions on this final draft held on November, 16, 2005 in the SWRPA offices in Stamford.

Mr. Wilson said that the guiding principal of the Plan is centrality. This is the same principal as the 1995 Plan. There are nine chapters within the Plan. There are two transportation-related documents which complement this Plan. Mr. Wilson reminded the Commission that SWRPA is an advisory agency. He added that the two transportation documents referred to this evening are on the SWRPA web site and available for review and download by all.

Mr. Conze noted that Darien is a victim of centrality, being located directly in between Stamford and Norwalk. Affordable housing was then briefly discussed within a general context. Ms. Forman mentioned that housing and transportation are inter-related. Ms. Wilson then read aloud the five broad recommendations on affordable and workforce housing. Mr. Conze suggested adding a few words to the end of one paragraph. Mr. Kenny said that the term "affordable housing" needs to be clarified. Mr. Damanti noted that Darien also struggles with issues related to Route 1, I-95 and Metro-North. Mr. Wilson said that all comments submitted to SWRPA will be considered. Mr. Damanti thanked Mr. Wilson for speaking with Commission members tonight, and said that it is likely that comments will be forwarded to him from the Commission over the next few weeks.

At 8:10 P.M., Mr. Conze made a motion to go into Executive Session with Attorney Jim Murphy to discuss pending litigation. That motion was seconded by Mr. Kenny and unanimously approved.

Executive Session with Town Attorney Jim Murphy to discuss pending litigation.

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Attorney Murphy reviewed pending litigation with Planning and Zoning Commission members. No formal actions were taken, and no decisions made. At 9:15 P.M. , Mr. Conze made a motion to adjourn the Executive Session. That motion was seconded by Ms. Forman and unanimously approved. The Commission then took a five minute recess.

At 9:20 P.M., Mr. Damanti then read the next agenda item:

Discussion only on the following item:

Subdivision Application #164-A, Nancy Hyland, 40 Noroton Avenue. Proposing to subdivide the existing properties into four building lots with associated open space and perform related site development activities. The subject properties are located on the east side of Noroton Avenue approximately 110 feet north of its intersection with Clock Avenue and are shown on Tax Assessor's Map #42 as Lots #151 and #152, in an R-1/3 Zone. *DECISION DEADLINE: NOVEMBER 17, 2005*

Mr. Damanti read aloud Article VII Section A of the Darien Subdivision Regulations. He noted that the $\frac{3}{4}$ vote required in this section would, in this case, require all five Commission members to vote in favor of any waiver needed for the project. He asked Mr. Ginsberg for the distances from the proposed Eddy Lane to Clock Avenue, Park Place and Casement Street. Mr. Ginsberg then reviewed the plans which were submitted as part of the public hearing record and scaled them for the Commission. He said that Clock Avenue is approximately 280 feet to the south of Eddy Lane; Casement Street is approximately 150 feet to the north (and across Noroton Avenue from) Eddy Lane; and Park Place is approximately 400 feet to the north of Eddy Lane. Commission members then reviewed some of the plans and documentation in the record and specifically noted that some of the submitted plans show a distance of 144 or 147 feet to Casement Street and some show a distance of 150 feet. Article IV Sections E7 and E9 of the Subdivision Regulations were then read aloud. Mr. Spain noted that Casement Street is at an oblique angle to Noroton Avenue.

Mr. Damanti mentioned that something less on the subject property could be deemed safer than the submitted application. Mr. Spain said that the street distance issue is a threshold question, and the threshold issue is dispositive. He added that Noroton Avenue is a busy street—busier than average. He stated that the Subdivision Regulations should be taken as applicable for an average street. In his opinion, this situation does not justify a waiver. Ms. Forman said that she agrees with Mr. Spain.

Mr. Conze said that the Planning and Zoning Commission is always open to reasonable development. However, in this case, there is no compelling reason to waive the subdivision regulations for this specific proposal. Mr. Kenny said that he supports Mr. Conze's reasoning. He added that he carefully listened to the audiotapes and the testimony presented at the public hearing. Mr. Damanti also noted that Noroton Avenue is a busy street, and there was no evidence in the record that would support a waiver. He said that there would be four streets relatively close together (Clock Avenue, Casement Street, Park Place and the proposed Eddy Lane). He said that a subdivision with fewer houses could possibly make a safer situation.

Mr. Spain said that the applicant needs to submit a traffic study which supports a waiver of the Subdivision Regulations. He agreed that a less intense development may be justified. Mr. Damanti said that there are other issues as well—trees; screening; and the character of the neighborhood.

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Mr. Kenny believed that there will be a safety issue in this location no matter what. Mr. Damanti said that the Commission can try to make it safer. Ms. Forman said that a less intense development would reduce traffic. Mr. Damanti believed that the subject application is over-intensive, and Ms. Forman agreed. Mr. Conze said that in his opinion, the applicant did not provide compelling reasons for waiving the Subdivision Regulations. A revised traffic study and some re-engineering would make the subdivision more benign. Mr. Damanti then summarized the comments this evening, and said that for the reasons expressed herein, Mr. Ginsberg should draft a resolution for the Commission's review and action at an upcoming meeting. Mr. Ginsberg said that he can have such a resolution ready for review sometime between November 1 and November 17.

At 9:50 P.M., Mr. Damanti read the next agenda item.

Discussion, deliberation and possible decision on the following items:

Land Filling & Regrading Application #146, Laurie Tuck, 29 Tulip Tree Lane. Proposing to add fill, regrade the back yard, and perform related site development activities. The property is located on the southwest side of Tulip Tree Lane approximately 800 feet west of its intersection with Raymond Street, and is shown on Assessor's Map #33 as Lot #57A in the R-1 Zone.

Mr. Spain made a motion to waive the reading of the draft resolutions aloud, as the Commission has had an opportunity to read and review them over the weekend. That motion was seconded by Mr. Conze, and unanimously approved.

Mr. Spain noted one typographical error on page 2 of the draft resolution. Ms. Forman made a motion to adopt the resolution with the one change. That motion was seconded by Mr. Spain, and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 18, 2005**

Application Number: Land Filling & Regrading Application #146

Street Address: 29 Tulip Tree Lane
Assessor's Map #33 Lot #57A

Name and Address of Property Owner:	Laurie Tuck 29 Tulip Tree Lane Darien, CT 06820
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Name and Address of Applicant: And Applicant's Representative:	Greg Twardy, Jr. Greg Twardy Landscape Con. 49 Herman Avenue Darien, CT 06820
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Activity Being Applied For: Proposing to add fill, regrade the back yard, and perform related site development activities.

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Property Location: The property is located on the southwest side of Tulip Tree Lane approximately 800 feet west of its intersection with Raymond Street.

Zone: R-1 Zone

Date of Public Hearing: September 27, 2005

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 15 & 22, 2005

Newspaper: Darien News-Review

Date of Action: October 18, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
October 27, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to fill a portion of the back yard to create a yard extension of 20-25 feet. There will be approximately 100-125 cubic yards of fill used, raising the grade 8-24 inches. Large boulders may be used to hold back the fill. The existing surface water flow directions on the property and existing drainage patterns will remain unchanged.
2. The Environmental Protection Commission recently approved other work on this property on June 15, 2005 as part of EPC #42-2005. The submitted plans for the subject application show no work will be conducted within 50 feet of wetlands as part of this filling and regrading application. All site regrading has been designed, and must be implemented, to be more than 50 feet away from the inland wetlands in order to avoid the need for a permit from the Darien Environmental Protection Commission.

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3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #146 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading shall be in accordance with the following plan submitted to and reviewed by the Commission:
 - Property Survey of #29 Tulip Tree Lane prepared for Franklin S. Tuck Laurie S. Tuck, by William W. Seymour & Associates, scale 1"=20', dated March 28, 2005 and submitted to the Planning & Zoning Department Aug 24, 2005, with hand-colored annotations.
- B. A professional engineer shall certify that the proposed grading has been achieved per the plans and that existing drainage patterns and neighboring properties are not impacted. This shall be submitted by October 18, 2006.
- C. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies.
- G. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 17, 2006). This may be extended as per Sections 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special

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Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti then read the next agenda item:

Coastal Site Plan Review #198-C, Flood Damage Prevention Application #216-C, Bluff Island, LLC, 23 Butler's Island Road. Proposing to construct replacement retaining walls and replacement steps leading to the water's edge; and to perform related site development activities within regulated areas. The subject property is located on the south side of Butler's Island Road, approximately 600 feet southeast of its intersection with North Road, and is shown on Assessor's Map #67 as Lot #79, in the R-1 Zone.

Mr. Conze made a motion to adopt the resolution as written. That motion was seconded by Mr. Kenny, and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 18, 2005**

Application Number: Coastal Site Plan Review #198-C
Flood Damage Prevention Application #216-C

Street Address: 23 Butler's Island Road
Assessor's Map #67 Lot #79

Name and Address of Property Owner: Bluff Island, LLC
23 Butler's Island Road
Darien, CT 06820

Name and Address of Applicant: Jeff McDougal
And Applicant's Representative: William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to construct replacement retaining walls and replacement steps leading to the water's edge; and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Butler's Island Road, approximately 600 feet southeast of its intersection with North Road.

Zone: R-1 Zone

Date of Public Hearing: September 27, 2005

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Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 15 & 22, 2005

Newspaper: Darien News-Review

Date of Action: October 18, 2005

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
October 27, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 and 870 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject applications propose to construct replacement retaining walls and replacement steps leading to the water's edge; and to perform related site development activities within regulated areas. One of the purposes of the application is to preserve the existing 15" Elm tree at the top of the slope near the steps and retaining wall. The project proposes to replace the existing retaining wall near the Mean High Water Line and to reduce the size and scale of the stairs.
2. All construction work will be performed above the high tide elevation of 5.8, which puts it outside of the jurisdiction of the State of Connecticut Department of Environmental Protection (DEP).
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The proposed activity will have no adverse impacts on flooding and, therefore, this proposal is consistent with the need to minimize flood damage.
5. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

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6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #198-C and Flood Damage Prevention Application #216-C are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Proposed activity shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Landscaping Plan, Bluff Island, 23 Butler's Island Road, by Robert A. Cardello Architects, LLC, dated August 25, 2005, Drawing #SP1.2.
 - Zoning Location Survey Depicting Proposed Conditions of #23 Butlers Island Road prepared for Bluff Island LLC, by William W. Seymour & Associates, dated July 8, 2003 and last revised August 18, 2005.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. As noted by the applicant at the public hearing, the erosion controls have been specifically designed to be moveable. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. The Commission strongly recommends that the applicant perform a pre and post blast survey of all adjacent structures if the owner determines that blasting will be necessary on the site for this project. A permit from the Fire Marshal is required if there is to be any blasting.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, approval from the Darien Health Department for the septic system.

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- F. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 17, 2006). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Damanti then read the next agenda item:

Business Site Plan #242/Special Permit, Robert L. Mazza d/b/a Sugar Bowl, 1033 Boston Post Road. Proposing to establish outdoor dining in front of the existing building (adjacent to Boston Post Road). Subject property is located on the northwest side of Boston Post Road, at the northeast corner formed by its intersection with Brook Street, and is shown on Assessor's Map #73 as Lot #12 in the CBD Zone.

Commission members briefly discussed the length of time that the approval would be valid for, and whether any future permit extension would require formal review and/or a public hearing. The Commission then agreed upon a number of changes to the draft resolution. Mr. Conze made a motion to adopt the resolution as amended. That motion was seconded by Mr. Kenny and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOTPED RESOLUTION
October 18, 2005**

Application Number: Business Site Plan #242/Special Permit

Street Address: 1033 Boston Post Road
Assessor's Map #73 Lot #12

Name and Address of Applicant & Property Owner: Robert L. Mazza
c/o Sugar Bowl Inc.
1033 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to establish outdoor seating in front of the existing building (adjacent to Boston Post Road).

Property Location: Subject property is located on the northwest side of Boston Post Road, at the northeast corner formed by its intersection with Brook Street.

Zone: CBD

Date of Public Hearing: September 27, 2005

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Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 15 & 22, 2005

Newspaper: Darien News-Review

Date of Action: October 18, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
October 27, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 1000, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application was submitted to establish "outdoor seating" in front of the existing building at 1033 Boston Post Road. During the Public Hearing it became apparent that the substance of the request was not to establish "outside food service", but rather was to place the described metal tables and chairs in front of the Sugar Bowl food service establishment. The proposal is to place a total of three 'table sets' consisting of three small tables and six chairs. As noted in the application materials submitted by the applicant, this will "...allow people to take out food and eat outside." "Outdoor seating" is defined by the Commission in this application as tables and chairs offered as a convenience to patrons who have ordered food or beverages "to go". No waiter/waitress service will be provided for the outside tables. The Sugar Bowl now has indoor seating. No changes are proposed to the Brook Street side of the building.
2. Although outdoor seating has been previously approved in a variety of locations throughout Darien, this is an application for outdoor seating on a public sidewalk on Boston Post Road/Route 1. At this time, the Commission does not have a special exemption policy relative to outdoor seating. Any such applications are treated as amendments of existing Business Site Plans and Special Permits, and must meet those standards.
3. During the public hearing it was noted that the sidewalk in front of this building is not owned by the applicant, nor by the Town; but rather, is owned by the State of Connecticut Department of Transportation (DOT). The applicant did not submit a letter from DOT authorizing him to

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proceed with the application, or authorizing the placement of 'table sets' on State property, nor does the record contain any prohibition of this proposed use by the DOT.

4. Very specific details regarding the proposed tables and chairs, the subject property, its adjacent sidewalk, and applicable property lines were submitted as part of this application. A Property Survey and a Proposed Sidewalk Plan (the "Plan") were submitted for the record in this matter. The Survey and Plan show key details necessary for the Commission to make an informed decision on this application. According to both the submitted Survey and the Plan, the sidewalk in front of this building is 10.5+/- feet wide from the edge of the building to the outside edge of the curb.
5. The proposed 'table sets' were specifically presented in terms of size, location, style and design. They are: 33" diameter tables with 15" diameter chairs. There will be a maximum of three tables and six chairs in front the Sugar Bowl. The 'table sets' are shown on the survey as being directly adjacent to the front of the building, extending a maximum of 3 ½ feet in front of the building.
6. A series of four photographs were submitted on the Plan showing the premises and the existing restaurant both with and without the proposed tables and chairs. In these photographs, the tables and chairs were shown to be in the exact same location as proposed within the application. The proposed tables and chairs are made of metal and thus are not likely to be moved by heavy winds.
7. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
8. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
10. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #242/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission approves the following plans submitted for the record in this matter:
 - Map prepared for Richard R. Mazza, Robert L. Mazza, Terry L. Mazza & Henry R. Mazza, by William W. Seymour & Associates, dated Feb 21, 1990.

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- Sugar Bowl, Brook Street, Proposed Sidewalk Plan, by Westmere Group, Inc., dated 8-22-05, Sheet A-1 (the “Plan”).
- B. The specific size, location, style, and design of the tables and chairs was presented to the Commission during the application process, and shall be as shown in Proposed View-C and Proposed View –D (photographs) and the submitted Proposed Sidewalk Plan which show the tables and chairs positioned immediately adjacent to the front of the building.
- C. The Commission approves the placement of a maximum of three (3) tables and six (6) chairs for a variety of reasons specifically related to this property. These include, but are not limited to: the lack of nearby residential dwelling units; the sidewalk being at least 10.5 feet wide in this location; the specific design and style of the tables and chairs; and the fact that the tables and chairs are of a specific, limited size and proper weight and in a specific location so as to not impede pedestrian access through the area. The Commission notes that the overall diameter/width of the tables and chairs is less than three feet, and that there would still be an unobstructed width of at least seven feet of sidewalk available for pedestrians to walk by the building.
- D. The property owner shall be responsible for the upkeep and maintenance of this outdoor seating area. This includes keeping it free from trash, litter, and debris. The property owner is also responsible for ensuring that the location of the tables and chairs are as specifically shown on the approved plans. The tables should be firmly anchored in their appropriate locations. This is imperative, because if chairs and/or tables are moved, pedestrian access may be inhibited, and safety impaired. The primary purpose for the sidewalk is for pedestrian access through the area, not for outside dining or expansion of the commercial use.
- E. Any future proposal for exterior umbrellas or a change in the existing awning will require review and action by the Architectural Review Board (ARB) and Darien Health Department prior to installation. No umbrellas have herein been approved. Umbrellas on these small tables would seem to be likely unstable in heavy winds and if not high enough, would further obstruct pedestrian passage along the sidewalk. Umbrellas are discouraged for these reasons.
- F. This approval is valid until April 12, 2007. This will allow the Commission to better understand the issues and concerns related to outdoor seating, and related issues such as trash pickup, pedestrian convenience and safety, and movement of furniture once the ‘table sets’ have been placed and in use. After December 1, 2006, the applicant may re-apply to the Planning and Zoning Commission for an extension of this permit further into 2007 and possibly beyond, and/or a new permit. This reapplication will be subject to administrative review by the Planning and Zoning Director, who may act upon it subject to compliance with the rules, policies, and regulations in effect at that time. The Director may or may not have the entire Commission review the request, and the Commission will determine whether a public hearing on this permit extension request is warranted.
- G. The placement of any trash cans outside will require review and action by the Fire Marshal (to ensure proper door clearance), the Darien Health Department, and the ARB prior to installation. Any trash cans to be placed in this area shall be emptied by the property owner as often as necessary.

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- H. No increase in the number, or any change in the size, location, style, or design of the tables or the chairs shall take place without prior review and action by the Planning & Zoning Commission.
- I. There shall be no table service or staff service for the outdoor tables and chairs. No alcohol shall be served or consumed at the tables. Since the tables and chairs are being presented as outdoor street furniture, they may be used by any members of the general public, and are not exclusively for use by restaurant customers.
- J. The submitted Plan shows that the tables are 2'9" in diameter and the submitted survey shows 2+/- feet from the building to the property line, part of the proposed tables may be located on State of Connecticut Department of Transportation property. If this is the case, the applicant shall also pursue a formal letter of permission from the State of Connecticut Department of Transportation (DOT) for use of their property.
- K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- L. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department.
- M. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (October 17, 2006). This may be extended as per Section 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Discussion of 2005 Town Plan of Conservation & Development.

Review of the entire draft document, including the Land Use Appendix.

Commission members were encouraged to continue to give comments on the draft Plan to Mr. Ginsberg, so that he can continue to revise the final draft of the Town Plan.

Any Other Business (requires two-thirds vote of Commission)

Commission members unanimously voted to go into other business to discuss two items—1077 Boston Post Road and the upcoming Cosi opening.

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Ms. Forman suggested one other condition which should be incorporated into the draft resolution for the project at 1077 Boston Post Road. Other Commission members agreed with that condition of approval, and Mr. Ginsberg will draft a resolution for consideration by the Commission.

Mr. Kenny noted that all Commission members have been invited to the grand opening of Cosi at 980 Boston Post Road, which is on Thursday, October 20th. Those wishing to attend should contact Mr. Ginsberg, who will forward the RSVPs to Mr. Genovese. Mr. Ginsberg will also extend the invitation to Mr. Bigelow.

There being no other business, the meeting was adjourned at 10:20 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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